

House Study Bill 294

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON DRAKE)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation of motor vehicle fuel,
2 providing for penalties, providing for a compliance fund, and
3 providing for an appropriation.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2701HC 80
6 da/cf/24

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1 1 Section 1. Section 214A.1, Code 2003, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 1A. "Department" means the department of
1 4 agriculture and land stewardship.
1 5 Sec. 2. Section 214A.11, Code 2003, is amended by striking
1 6 the section and inserting in lieu thereof the following:
1 7 214A.11 CIVIL PENALTIES == DEPOSIT IN THE COMPLIANCE FUND.
1 8 1. The department shall establish, by rule, civil
1 9 penalties which may be administratively or judicially assessed
1 10 against a person who violates this chapter.
1 11 2. a. The amount of a civil penalty shall not exceed
1 12 three thousand dollars for a violation other than a violation
1 13 of section 214A.18.
1 14 b. The amount of a civil penalty for a violation of
1 15 section 214A.18 shall not exceed five hundred dollars. Each
1 16 day that a violation continues shall constitute a separate
1 17 violation. However, a person shall not be subject to a civil
1 18 penalty of more than two thousand five hundred dollars for a
1 19 continuing violation.
1 20 c. Moneys collected in civil penalties by the department
1 21 or the attorney general shall be deposited in the compliance
1 22 fund created in section 214A.14A. However, if the attorney
1 23 general is the prevailing party in a court action, the
1 24 attorney general shall be awarded court costs and reasonable
1 25 attorney fees, which shall be taxed as part of the costs of
1 26 the action.
1 27 3. A civil penalty may be administratively assessed only
1 28 after an opportunity for a contested case hearing under
1 29 chapter 17A. The department may be represented in an
1 30 administrative hearing or judicial proceeding by the attorney
1 31 general. A civil penalty shall be paid within thirty days
1 32 from the date that an order or judgment for the penalty
1 33 becomes final. When a person against whom a civil penalty is
1 34 administratively assessed under this section seeks timely
1 35 judicial review of an order imposing the penalty as provided
2 1 under chapter 17A, the order is not final until all judicial
2 2 review processes are completed. When a person against whom a
2 3 civil penalty is judicially assessed under this section seeks
2 4 a timely appeal of judgment, the judgment is not final until
2 5 the right of appeal is exhausted.
2 6 4. A person who fails to timely pay a civil penalty as
2 7 provided in this section shall pay, in addition to the
2 8 penalty, interest at the rate of one and one-half percent of
2 9 the unpaid balance of the assessed penalty for each month or
2 10 part of a month that the penalty remains unpaid.
2 11 Sec. 3. NEW SECTION. 214A.14A COMPLIANCE FUND.
2 12 1. A compliance fund is created in the state treasury
2 13 under the control of the department. The compliance fund is
2 14 separate from the general fund of the state.
2 15 2. The compliance fund is composed of moneys appropriated
2 16 by the general assembly and moneys available to and obtained
2 17 or accepted by the department from the United States
2 18 government or private sources for placement in the compliance
2 19 fund. The compliance fund shall include moneys deposited into
2 20 the fund from civil penalties as provided in section 214A.11.
2 21 3. Moneys in the compliance fund are appropriated to the

2 22 department exclusively to pay the expenses of the department
2 23 in administering and enforcing the provisions of this chapter.
2 24 The moneys shall not be transferred, used, obligated,
2 25 appropriated, or otherwise encumbered except as provided in
2 26 this subsection.

2 27 4. Moneys in the fund, which may be subject to warrants
2 28 written by the director of revenue and finance, shall be drawn
2 29 upon the written requisition of the secretary or an authorized
2 30 representative of the secretary.

2 31 5. Notwithstanding section 8.33, any unexpended balance in
2 32 the compliance fund at the end of the fiscal year shall be
2 33 retained in the fund. Notwithstanding section 12C.7,
2 34 subsection 2, interest, earnings on investments, or time
2 35 deposits of the moneys in the compliance fund shall be
3 1 credited to the fund.

3 2 Sec. 4. NEW SECTION. 214A.14B DEPARTMENTAL USE OF MONEYS
3 3 FROM COMPLIANCE FUND == MTBE.

3 4 For the fiscal period beginning July 1, 2003, and ending
3 5 June 30, 2010, the department shall use moneys deposited in
3 6 the compliance fund created in section 214A.14A and
3 7 appropriated to the department pursuant to that section
3 8 exclusively for purposes of detecting and monitoring the
3 9 presence of MTBE in this state. The department shall use the
3 10 moneys for purposes of purchasing equipment and supporting
3 11 full-time equivalent positions in addition to those supported
3 12 from the general fund of the state.

3 13 Sec. 5. Section 214A.14B, Code 2003, is repealed.

3 14 Sec. 6. EFFECTIVE DATE. The section of this Act repealing
3 15 section 214A.14B takes effect July 1, 2010.

3 16 EXPLANATION

3 17 Code chapter 214A provides for the regulation of motor
3 18 vehicle fuel and its contents by the department of agriculture
3 19 and land stewardship. During the 2000 Legislative Session,
3 20 the general assembly enacted provisions codified in Code
3 21 section 214A.18 which prohibited a person from selling or
3 22 storing more than trace amounts of methyl tertiary butyl ether
3 23 (MTBE). According to the Code section, a trace amount is not
3 24 more than one-half of 1 percent by volume.

3 25 According to Code section 214A.11, the penalty for a
3 26 violation of the Code chapter is a simple misdemeanor. A
3 27 simple misdemeanor is punishable by confinement for no more
3 28 than 30 days or a fine of at least \$50 but not more than \$500
3 29 or by both.

3 30 This bill replaces the criminal penalty with a civil
3 31 penalty to be administered by the department. The amount of
3 32 the civil penalty cannot exceed \$3,000 for a violation unless
3 33 the violation involves the storing or selling of MTBE. In
3 34 that case, the amount of the civil penalty cannot exceed \$500
3 35 per day. The bill provides that a person is not subject to a
4 1 civil penalty of more than \$2,500 for a continuing violation.
4 2 The moneys collected in civil penalties are to be deposited in
4 3 a compliance fund, created in the bill. However, if the
4 4 attorney general is a prevailing party in a court action, the
4 5 attorney general is awarded court costs and reasonable
4 6 attorney fees.

4 7 The compliance fund is a fund under the control of the
4 8 department and is to be used exclusively to pay the expenses
4 9 of the department in administering and enforcing the
4 10 provisions of Code chapter 214A. The bill also provides that
4 11 through June 30, 2010, the department must use moneys
4 12 deposited in the compliance fund exclusively for purposes of
4 13 detecting and monitoring the presence of MTBE in this state.

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